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OF RACIAL DISCRIMINATION
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Tenth periodic reports of States parties due in 1991

Addendum

ALGERIA*

[16 April 1992]

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* This report contains the ninth and tenth periodic reports which were due, respectively, on 15 March 1989 and 15 March 1991. For the seventh and eighth periodic reports submitted by the Government of Algeria and the summary records of meetings of the Committee at which those reports were considered, see the following documents:

Seventh periodic report - CERD/C/131/Add.3 (CERD/C/SR.769-SR.770);

Eighth periodic report - CERD/C/158/Add.2 and Add.6 (CERD/C/SR.841).

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INTRODUCTION

1. In accordance with article 9 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination, the Government of the People's Democratic Republic of Algeria is submitting in the present document its ninth and tenth periodic reports on measures to give effect to the provisions of the Convention. This consolidated text, which combines the reports due in 1989 and 1990, was prepared in accordance with the revised general guidelines concerning the form and contents of reports by States parties adopted by the Committee on the Elimination of Racial Discrimination. While providing information on measures already adopted by Algeria, this document will focus more particularly on new developments which have taken place since the submission of Algeria's eighth periodic report (CERD/C/158/Add.2).

2. In submitting these reports, Algeria demonstrates its abiding commitment to the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and its unfailing support for the Committee on the Elimination of Racial Discrimination. That support found solemn expression in the 1989 declaration by the Algerian Government in which it recognized the competence of the Committee under article 14 of the Convention.

PART ONE - GENERAL

I. OUTLINE OF ALGERIA'S POLICY WITH REGARD TO THE CAMPAIGN AGAINST RACIAL DISCRIMINATION AND OVERALL LEGAL FRAMEWORK

3. A preliminary statement concerning the reforms under way in the political, economic, social and cultural spheres will aid in understanding the scope of the profound changes that Algeria has experienced since the adoption of its new Constitution on 23 February 1989. These changes are intended to strengthen the country's democratic structures, improve the functioning of national institutions and consolidate a State subject to the rule of law. Such a State derives its force by affirming rules which underpin a multiparty system and the separation of powers and which accord particular importance to the participation of citizens in the conduct of public affairs and to the safeguarding and promotion of their rights and freedoms. A series of economic measures have been implemented to enhance the national production system with a view to improving management techniques and adapting the system to social, economic and technological changes. The political scene has changed significantly as a result of the introduction of a multiparty system, which is embodied in the Constitution adopted by the people in a referendum on 23 February 1989.

4. As stressed in the preamble to the Constitution, by adopting that fundamental text, which represented "the work of its own genius, reflection of its aspirations, fruit of its determination and product of profound social changes", the people wished "to enshrine more solemnly than ever the primacy of law" and "to endow itself with institutions based on the participation of citizens in the conduct of public affairs and bringing about social justice, equality and freedom for one and all ...". The actions taken to strengthen the rule of law and consolidate democratic institutions have been reinforced by various measures which are designed to give effect, in law and in practice, to the proclaimed constitutional principles and which strengthen the machinery for the exercise of democratic rights and the protection of human rights and public freedoms. These measures will be discussed below in relation to the articles of the Convention. Their principal features are outlined in the following paragraphs.

5. The Constitution of 1989 enshrines the primacy of law and provides for political pluralism, freedom of association, separation of the executive, legislative and judicial powers, and an independent judiciary. Control over institutions has been strengthened, in particular by the establishment of the Constitutional Council mandated to guarantee respect for the Constitution; ensure that referendums, presidential elections and legislative elections are carried out properly; and rule on the constitutionality of treaties, laws and regulations. The Constitutional Council was set up by the President of the Republic on 8 March 1989 and has handed down various decisions and opinions concerning the Electoral Code, the status of the deputies and the regulations governing the National People's Assembly.

6. The 1989 Constitution gives greater scope to the exercise of human rights and freedoms. Its new provisions reaffirm the rights recognized under the 1976 Constitution and strengthen and guarantee the means of exercising

such rights. "From this time forward, their applicability derives directly from the Constitution and from the system of control guaranteeing pluralism and the separation of powers".

7. A review was made of special courts and procedures, with the result that the Court of National Security was abolished and pending cases have been referred to the normally competent bodies (Act No. 89-06 of 25 April 1989).

8. The Code of Penal Procedure has been amended in such a way that every offence, regardless of its nature, falls under the procedures and courts of ordinary law. The economic division of the criminal court was thus eliminated (Act No. 90-24 of 18 August 1990, amending and supplementing Ordinance No. 66-155 of 8 June 1966 relating to the Code of Penal Procedure).

9. A review of existing legislation was carried out in order to expunge from it any legal rules inherited from the colonial period. In that context, penal relegation was deemed because of its inhumane character not to be consistent with Algerian values. That penalty was consequently abolished by Act No. 89-05 of 25 April 1989, amending article 9 and repealing articles 10 and 60 of Ordinance No. 66-156 of 8 June 1966, relating to the Penal Code.

10. Provisions of the Code of Civil Procedure relating to the system of administrative litigation have been amended with a view to simplifying recourse procedures and making justice more accessible (Act No. 90-23 of 18 August 1990 amending and supplementing Ordinance No. 66-154 of 8 June 1966 relating to the Code of Civil Procedure).

11. The provisions of the Code of Penal Procedure have been revised in order to enhance protection for the fundamental rights and freedoms of citizens, in particular by strengthening the rights of the defendant and the guarantees in respect of police custody and pre-trial detention procedures (Act No. 90-24 of 18 August 1990, mentioned in para. 8 above).

12. The judiciary regulations have been revised. Act No. 89-21 constituting new judiciary regulations was promulgated on 12 December 1989 with a view to giving full effect to the 1989 constitutional provisions providing for a multiparty system, the separation of powers and the independence of the judiciary, the function of which is to protect society and freedoms and to safeguard the fundamental rights of all citizens (arts. 40, 129 and 130 of the Constitution). In that connection, the recent judiciary regulations strengthen the new mandate for judges: these regulations highlight the rights and obligations of judges, ensure their impartiality and protect them against any form of pressure or interference which might be prejudicial to the accomplishment of their mission or to respect for their freedom of action. Thus, the new regulations set forth the principle of irremovability of judges and their right to be protected against all forms of pressure and interference and against threats, contempt, insults, defamation or attacks of any sort. The right of judges to membership in a professional association is recognized; however, as a guarantee of impartiality, they are prohibited from joining any political grouping. In the event that a judge deems his rights to have been violated, he may refer the matter to the Supreme Council of the Judiciary, the composition and functioning of which have been reviewed in the light of the constitutional principles mentioned above.

13. The organization and functioning of the Supreme Court have been reviewed in order to enable the highest court in the land to discharge its duties, namely, to ensure respect for the law in a constitutional State and to safeguard the independence of the judiciary (Act No. 89-22 of 12 December 1989 relating to the organization and functioning of the Supreme Court). In addition, by Executive Decree No. 90-141 of 19 May 1990, a Supreme Court Review was created for the purpose of disseminating knowledge about jurisprudence and harmonizing the manner in which the various courts and tribunals apply the law.

14. A series of laws have been enacted to give full effect to the fundamental rights recognized under the Constitution: Act No. 90-07 of 3 April 1990 relating to information; Act No. 90-14 of 2 June 1990 relating to trade-union rights; Act No. 89-11 of 5 July 1989 relating to political associations; and Act No. 90-31 of 4 December 1990, a recent revision of the law relating to non-political associations, facilitating the establishment of such associations, in particular by eliminating the requirement of prior authorization, provided for under Act No. 87/15 of 21 July 1987.

15. An amnesty was declared in respect of flagrant crimes and offences against persons or property committed on the occasion of violent gatherings or rallies which occurred in certain places from 1 April 1980 to 11 July 1988 and throughout the country from 1 to 31 October 1988 (Amnesty Act No. 90-19 of 15 August 1990 and Act No. 90-20 of 15 August 1990 relating to compensation arising from the Amnesty Act concerned).

16. This process of legislative review is continuing with a view to harmonizing laws and regulations with the new aspirations of Algerian society. Several sectoral and intersectoral commissions are redrafting legal texts in order to provide a legal foundation for the primacy of law and to establish a framework for the various forms of expression and exercise of the rights solemnly proclaimed in the Constitution.

17. More than 50 political parties have been authorized. In addition, over 28,500 non-governmental organizations have been established and have the right to carry out their mandated activities without constraint. The national liberation movement against colonial occupation was characteristic of Algeria's rejection of all forms of domination and discrimination. Having gained its independence, Algeria then enshrined its condemnation of racism and racial discrimination as a basic constitutional principle. The fundamental law of the land, the Constitution of 23 February 1989, adopted by the people in a referendum, does not deviate in any way from the previous Constitution of 1976 in its condemnation of all discriminatory practices: in its preamble, the Constitution guarantees "individual and collective rights and freedoms ... in a society characterized by the rule of law and the all-round development of the individual", proclaiming at the same time the commitment of the Algerian people to freedom and social justice.

Rights enshrined in the Constitution

18. Article 26 states in clear terms that "Algeria declares its solidarity with all peoples who are fighting for political and economic liberation, for the right to self-determination and against all forms of racial discrimination".

19. Under article 28, citizens are equal before the law, without discrimination of any kind on grounds of birth, race, sex, opinion or any other condition or personal or social circumstance.

20. Article 30 provides that the aim of the national institutions is to ensure the equality of all citizens of either sex with respect to rights and duties by eliminating the obstacles that stand in the way of the development of the person and prevent the effective participation of everyone in political, economic, social and cultural life.

21. Article 31 guarantees basic freedoms, human rights and the rights of the citizen. These constitute the common heritage of all Algerian men and women, whose duty it is to hand them down from generation to generation with a view to the preservation of the integrity and inviolability of this heritage.

22. Article 32 guarantees the individual and joint protection of basic human rights and individual and collective freedoms.

23. Article 33 stipulates that the State guarantees the inviolability of the person. Any form of physical or mental violence is proscribed.

24. Article 34 provides that offences against rights and freedoms and offences against the physical and mental integrity of the person are punishable by law.

25. Article 35 states that freedom of conscience and freedom of opinion are inviolable.

26. Under article 37, the privacy and reputation of the citizen are inviolable and are protected by law. The confidentiality of private correspondence and communication, in all their forms, is guaranteed.

27. Article 39 provides that the citizen is guaranteed the freedoms of expression, association and assembly.

28. Article 40 recognizes the right to create political associations. However, this right cannot be invoked to infringe basic freedoms, national unity, territorial integrity, the independence of the nation and the sovereignty of the people.

29. Article 47 stipulates that every citizen who complies with the legal requirements is entitled to vote and to stand for election.

30. Under article 48, all citizens are guaranteed equal access to public office and employment, without and conditions other than those laid down by law.

31. The main provisions of article 50 stipulate the following: the right to education is guaranteed and education is free subject to the conditions laid down by law; basic education is compulsory; the State organizes the educational system; and the State ensures equal access to education and vocational training.

32. Article 51 provides that all citizens are entitled to health protection and that the State assures the prevention and control of epidemic and endemic diseases.

33. Article 52 guarantees a number of rights: all citizens have a right to work; the right to occupational protection, safety and hygiene is guaranteed by law; and the right to rest is guaranteed, the rules for the exercise of this right being determined by law.

34. Lastly, under article 53, the right of association is recognized for all citizens.

35. The fact that these rights are laid down in the Constitution means that their applicability derives directly from Algeria's basic law, which strengthens the guarantees for their protection. Since the provisions of the Constitution come first in the hierarchy of legal norms, any statute or regulation in breach of these norms would be declared unconstitutional.

36. It should also be noted that the following have been laid down as constitutional principles, among others: (a) the guarantee of the inviolability of the person; (b) the prohibition on any form of violence, whether physical or mental; and (c) the punishment by law of offences committed against the rights and freedoms as well as offences against the physical and mental integrity of the person.

37. In addition to the International Convention on the Elimination of All Forms of Racial Discrimination, Algeria is party to a large number of international instruments which set forth a series of rights that together uphold the dignity and integrity of the person. Among the Conventions which Algeria has ratified are:

(a) The African Charter on Human and Peoples' Rights of 1981;

(b) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 2 December 1949;

(c) The Convention on the Prevention and Punishment of the Crime of Genocide, of 9 December 1948;

(d) The Convention relating to the Status of Refugees, of 28 July 1951;

(e) The Convention relating to the Status of Stateless Persons, of 28 September 1954;

(f) The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, of 7 September 1954;

(g) The International Convention on the Suppression and Punishment of the Crime of Apartheid, of 30 November 1973;

(h) International Convention against Apartheid in Sports, of 10 December 1985;

(i) The Geneva Conventions of 1949 and the Additional Protocols of 1977;

(j) The Protocol relating to the Status of Refugees, of 16 December 1966.

38. Even more recently, at the end of 1989, Algeria ratified the following international instruments, thereby reaffirming its commitment to strive for the strengthening of human rights:

(a) The International Covenant on Economic, Social and Cultural Rights, of 16 December 1966;

(b) The International Covenant on Civil and Political Rights, of 16 December 1966;

(c) The Optional Protocol to the International Covenant on Civil and Political Rights, of 16 December 1966;

(d) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of 10 December 1984.

II. STATUS OF THE CONVENTION UNDER DOMESTIC LAW

39. Under article 122 of the Constitution, treaties relating to the status of persons are ratified by the President of the Republic after being expressly approved by the National Peoples' Assembly. Article 123 provides, further, that "Treaties ratified by the President of the Republic, on the conditions laid down by the Constitution, rank higher than the law". Once the instrument in question has been ratified, it becomes an integral part of national law and, in accordance with the relevant provisions of the Constitution, acquires a legal force which is greater than that of the law. Accordingly, treaties which have been duly ratified rank second in the hierarchy of legal norms, coming after the Constitution and before the law. Effect cannot be given to a law in conflict with a treaty, as the provisions of the convention prevail over it.

40. The provisions of a duly ratified convention can be invoked directly before the courts. The Constitutional Council, in decision No. 1 D.L.C.C. 89 of 20 August 1989 relating to the Electoral Code, reaffirmed in clear terms the constitutional principle that duly ratified treaties Rank higher than the law, and concluded that any Algerian citizen was authorized to rely on such treaties before the courts:

> "Whereas following its ratification and as from its publication, any convention becomes part of the national law and, pursuant to article 123 of the Constitution, acquires an authority greater than that of the law, authorizing any Algerian citizen to rely on it before the court, and

whereas this applies in particular to the United Nations Covenants of 1966 approved by Act 89-08 of 25 April 1989 to which Algeria acceded by Presidential Decree No. 87-67 of 16 May 1989 as well as with the African Charter on Human and Peoples' Rights ratified by Decree No. 87-37 of 3 February 1987, which legal instruments formally prohibit discrimination of any kind" (excerpt from the above-mentioned decision).

The judicial, administrative and other authorities are bound to abide by the law and Algeria's international commitments.

III. DEMOGRAPHIC COMPOSITION OF THE POPULATION

41. As the Committee took the view, when is examined Algeria's eighth perodic report (CERD/C/153/Add.2), that the statistics communicated contained information that was not within its remit, such statistics have not been included in this report. It would nonetheless seem appropriate to reiterate that in Algeria population censuses have never been based on ethnic, religious or linguistic criteria.

42. The Algerian people are characterized by their homogeneity. Islam was one of the components of the national personality which was forged in a cultural melting pot with many currents. All the attempts of colonialism to deny the existence of the Algerian nation met with the resistance of the Algerian people. Already, under Masinissa, the founder of the first Numidian State, and Jugurtha, the initiator of the resistance against Roman imperialism, the national character started to form, and the notion of an Algerian nation which was to assert itself throughout Algeria's historical development for more than 2,000 years was to be consolidated. From the seventh century on, Islam made a decisive contribution. The States which succeeded each other on Algerian soil from the time of the Middle Ages, from the Rustamids through the dynasty of the Zirids-Hammadids and that of Abdal-wadids-Zayanids to the Emir Abdelkader, consolidated the historical heritage of the Central Maghreb through its Muslim values and its strong national identity, thereby extending and enriching the traditions of the most distant past. These different periods of Algeria's history constituted a melting pot where the ethnic mix, the enriching inputs and the creations of the distinctive national character blended closely together, culminating in an original expression of the Algerian personality.

43. In the face of the many aggressions from Europe from the time of the sixteenth century, and despite the foreign settlement policy which was applied after the French colonial invasion of 1830, the Algerian personality was not affected. Algeria's survival was the result of constant struggle and long resistance to oppression which culminated in the reconquest of its national sovereignt and identity. The colonizer's attempts at division have, on the contrary, strengthened the unity of the Algerian people who today, in their new-found freedom and identity, pursue the work of economic, social and cultural development in a modern State where the Rule of law holds sways.

44. The Constitution opens with an article which states that "Algeria is a democratic people's republic; it is one and indivisible". Article 28 of the Constitution provides that "Algerian citizens are equal before the law, without discrimination of any kind on ground of birth, race, sex, opinion or

any other condition or personal or social circumstance." Article 30 provides that "The aim of the national institutions is to ensure the equality of all citizens, of either sex with respect to rights and duties by eliminating the obstacles that stand in the way of the development of the person and prevent the effective participation of everyone in political, economic, social and cultural life."

45. The affirmation in the Constitution that Islam is the State religion and that Arabic is the national and official language derives from the attempts to depersonalize and divide the Algerian people who, by referendum, decided to reaffirm and incorporate in the Constitution the basic characteristics of its personality, thereby underlining the homogeneity of its human and cultural component. This affirmation must not, however, be interpreted narrowly in a way that diminishies the Algerian personality, which is also enriched by its ancient traditions.

46. In addition to its Arabic and Islamic culture, Algeria also recognizes its "Amazigh" or Berber culture and the fact that it is part of Africa and the Mediterranean. Berber is widely spoken in a number of regions of Algeria and is used as a medium of expression at many cultural and artistic events held both in and outside the country as well as on the second channel of the national radio, which broadcasts in Berber from 6 a.m. to midnight, providing its listeners with artistic, educational and cultural programmes and news bulletins. The Amazigh culture and language find expression as constituent elements of the national cultural heritage. For instance, a Department of Culture and of the Amazigh Language has been set up at the University of Tizi-Ouzou. As well as teaching the language, the Department has carried out a series of studies and research projects and has held a number of symposia on the Amazigh culture. Recently (1990), it started a postgraduate course for students wishing to specialize in this field.

47. As regards religion, freedom of religion and worship is laid down and guaranteed under a number of provisions in the Constitution. In addition to articles 28 and 30, article 35 stipulates that freedom of conscience and opinion is inviolable. Article 37 provides that privacy and reputation are inviolable and are protected by law. Article 39 guarantees the freedoms of expression, association and assembly. These provisions reflect, in law, the fact that tolerance has always been to the foreforont in Algerian society, which has enabled the three major monotheistic religions to live together. The Christian and Jewish communities continued to enjoy freedom of religion after independence. Their respective places of worship are protected by the Ministry of Religious Affairs. The archbishopric of Algiers consists of a number of dioceses including those in Algiers with (seven churches), Laghouat (one church), Oran (four churches) and Constantine (two churches). The Jewish consistory has its headquarters in Algiers and there are two synagogues, one in Blida and the other in Algiers.

48. Any insult levelled against one or more persons belonging to an ethnic or philosophical group or to a particular religion is punishable under the Penal Code (art. 298 bis).

PART TWO

INFORMATION IN RELATION TO ARTICLES 2 TO 7 OF THE CONVENTION

49. The history of Algeria gives the measure of the struggle of peoples against all forms of oppression and domination. Its own struggle for freedom has in no way prevented it, for instance, from expressing its condemnatione on the world stage of crimes committed out of racial prejudice. One of independent Algeria's first acts of sovereignty was to accede to the existing international conventions concerning the struggle against discrimination in all its forms. It has also made an active contribution to the preparation of new conventions designed to isolate the apartheid regime, including the International Convention against Apartheid in Sports, which it has ratified.

I. INFORMATION CONCERNING ARTICLE 2

A. Paragraph 1

1. Measures taken to give effect to the undertaking to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation.

50. In addition to being a party to the international human rights convention, Algeria has consistently subscribed to the resolutions and recommendations adopted by United Nations bodies to promote human rights in general and to combat discrimination in all its forms in particular.

(a) The 1989 Constitution

51. The fundamental law of the country in its preamble recalls that "it is, above all the fundamental law which guarantees individual and collective rights and freedoms, protects the rule of the free choice of the people and confers legitimacy on the exercise of powers. It enables legal protection and control of the action of the authorities to be guaranteed, in a society characterized by the rule of law and the all-round development of the individual".

52. The chapter on rights and freedoms contains articles which expressly prohibit racial discrimination.

"Article 26

"Algeria declares its solidarity with all peoples who are fighting for political and economic liberation, for the right to self-determination and against all forms of racial discrimination.

"The aim of the institutions is to ensure the equality of all citizens of either sex with respect to rights and duties by eliminating the obstacles that stand in the way of the development of the person and prevent the effective participation of everyone in political, economic, social and cultural life".

"Article 40

"The right to create political associations is recognized.

However, this right may not be invoked to infringe basic freedoms, national unity, territorial integrity, the independence of the nation and the sovereignty of the people".

"Article 48

"All citizens are guaranteed equal access to public office and employment, without any conditions other than those laid down by law".

53. The violations of the rights and freedoms of the human being referred to in the Constitution are severely punished by Algerian law. Thus, the Penal Code devotes a chapter to crimes and offences against the Constitution, which includes a section on violations of freedom and specific provisions concerning officials and agents who engage their personal civil liability and that of the State when they order or commit an arbitrary act or an act which violates either individual freedom or the civil rights of citizens.

(b) Basic legal texts and sectoral laws

54. There are various basic legal texts and sectoral laws which protect the rights of the individual, such as the Code of Penal Procedure (rights of the defence and control of penal procedures), the Civil Code (protection of legally incompetent persons and minors; a ban on renunciation of one's individual freedom; nullity of contracts on account of violence, etc.); the Code of Prison Organization and Re-education; the ordinance concerning the protection of children and adolescents; the law concerning information (publications must not include any illustration, story, information or insertion which violates human rights; protection against defamation, etc.); the law concerning the protection and promotion of health (including the provisions regarding the removal of tissues and organs, experiments on human beings, the duty of medical practitioners to report any evidence of brutality against minors and persons deprived of their liberty which has come to their attention in the exercise of their profession, the creation of a national council of ethics for the health sciences, etc.).

(c) Competence of the constitutional council

55. The Constitutional Council may declare unconstitutional any legislative provision or regulation which violates the Constitution. It has already been stated that the Constitution prohibits any form of physical and moral violence, guarantees the inviolability of the person and devotes an entire chapter to human rights. The Constitutional Council therefore has considerable scope for controlling the human rights laws and regulations. This is especially the case if Constitutional Council deems a legislative provision or regulation unconstitutional, because the latter becomes invalid from the day of the Council's decision. The Constitutional Council is also empowered to control certain procedures which may affect the operation of national institutions and the rights of the citizen. Thus, articles 84-87 and 91 make it obligatory to involve the Constitutional Council and obtain its

opinion regarding declaration of a state of impediment, a state of siege or a state of emergency or the signature of armistice agreements and peace treaties. In case of a constitutional amendment, the President of the Republic not directly promulgate the law containing the amendment (without holding a popular referendum on the subject) only if it has obtained three quarters of the votes of the members of the Nationls Peopel's Assembly and after the Constituional Council has delivered a reasoned opinion declaring that the proposed amendment in no way flouts the general principles governing Algerian society, violates human and citizens' rights and freedoms or affects the fundamental balance of the powers and institutions (art. 164 of the Constitution).

2. Measures taken to give effect to the undertaking not to sponsor, defend or support racial discrimination by any persons or organizations

56. Of the constituitional provisions concerning duties, those which discourage violations of rights and freedoms should be noted.

"Article 57

"Ignorance have of the law is no excuse.
"Everyone is required to respect the Constitution and to abide by the laws of the Republic".

"Article 60

"All individual freedoms are exercised with respect for the rights of others recognized by the Constitution, in particular the right to honour, privacy, and protection of the family, and to young people and children."

57. Various laws and regulations have been adopted or amended to incorporate the basic principles established by the Constitution. Thus the right to create political associations, recognized by article 40 of the Constitution, is governed by Act No. 89-11 of 5 July 1989, article 5 of which provides that "no political association may be established or pursue its activities on an exclusively religious, linguistic or regionalist basis, or on the basis of belonging to a particular sex or race or of having a specific occupational status".

58. The Penal Code, for its part, has had a significant number of its provisions amended in recent years, and punishes all acts of racial discrimination with equal severity, whether nationals or foreigners are involved.

59. Article 26, paragraph 1, of Act No. 90-07 of 3 August 1990 concerning information, which was adopted to replace the Information Code of 1982, provides that "Periodic and specialized national or foreign publications of whatever kind or purpose shall not include any illustration, story, information or insertion that is contrary to Islamic morals, national values or human rights or defend racism, fanaticism or treason". As far as the obligations of

professional journalists are concerned, article 40, paragraph 2.5, prohibits them from "directly or indirectly defending race, intolerance or violence".

60. Algeria is continuing its action against apartheid and against all forms of racial discrimination and regularly demonstrates this commitment by denouncing and condemning these crimes and by observing nation-wide days of solidarity with the peoples who are victims of such crimes. African Liberation Day and the International Day of Solidarity with the Palestinian People, are among the occasion when Algeria manifests its staunch support for the liberation of the human being from any form of subjugation or enslavement.

3. Measures taken to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists

61. As soon as Algeria became independent, all the laws and regulations which impaired the internal or external sovereignty of the Algerian State or were of a colonial or discriminatory nature, and all the texts and provisions which hampered the normal exercise of democratic freedoms, were abrogated (Act No. 62/57 of 31 December 1962).

4. Measures taken to prohibit and bring to an end racial discrimination by any persons, group or organization

62. Since racist practices are alien to Algerian society, no specific measures other than the abrogation of the laws inherited from colonialism have been necessary.

5. Measures taken to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division

63. The Algerian people is so homogeneous that no special measures have been necessary at the national level. Algeria encourages the elimination of barriers between peoples and promotes multiracial exchanges with the various regions of the world.

B. Paragraph 2

64. All Algerian citizens, without any distinction or discrimination, benefit from the same civil, political, economic, social and cultural rights. Regarding economic, social and cultural rights in particular, Algeria ratified, by Presidential Decree No. 86-67 of 16 May 1989, the International Covenant on Economic, Social and Cultural Rights, which imposes an obligation upon States parties to submit periodic reports on the measures taken to give effect to its provisions.

II. INFORMATION CONCERNING ARTICLE 3

A. Action taken by Algeria against racial segregation and apartheid

65. Algeria, whose national liberation struggle against colonial occupation was also marked by a refusal of any form of domination or discrimination, has unceasingly demonstrated its total and unequivocal rejection of apartheid, rightly qualified as a crime against humanity. Algeria is a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid and it was perfectly natural that it should show solidarity with all measures undertaken at the international level to eradicate this practice, which it regards as the most inhuman affront to human dignity. Algeria is firmly convinced that apartheid is a blantant negation of the purposes and principles of the Charter of the United Nations and that it represents a constant threat to international peace and security.

66. Algeria has either initiated or associated itself with all the decisions taken by the various United Nations bodies to eradicate apartheid. Algeria's support for and solidarity with the victims of apartheid are also fully expressed within the Movement of Non-Aligned Countries, the Organization of African Unity, the League of Arab States, the Organization of the Islamic Conference and other forums. Algeria is thus one of the founder members of the African Anti-Apartheid Committee and acts as its Vice-Chairman. It is also an active member of the follow-up group of the OAU Ad Hoc Committee on Southern Africa. In addition, it discharges its responsibility to the AFRICA Fund, to which it has decided to contribute the substantial sum of US$ 10 million.

67. With regard to the most recent developments in southern Africa, Algeria notes with interest the signs of openness emerging in South Africa, such as the lifting of the ban on certain political organizations opposing apartheid, the lifting of the state of emergency or the release of some political prisoners such as Mr. Nelson Mandela, who was given a welcome worthy of his stature as a man and his struggle, when he visited Algeria in May 1990.

68. Algeria was extremely pleased by Namibia's accession to independence, as the following statement made on that occasion by the spokesman for the Ministry of Foreign Affairs of Algeria demonstrates:

> "Today, 21 March 1990, Africa and the international community welcome the independent Republic of Namibia into their ranks. This long-awaited and historic event is the culmination of the long and heroic struggle of the Namibian people for their freedom. It is also the reward for the determined and unswerving commitment of the United Nations to the decolonization of Namibia.
>
> Algeria, which has supported the Namibian nation in many ways and has given active solidarity to its struggle for national liberation, rejoices today in the final achievement of that goal and fully intends to continue this joint and fraternal action with an independent Namibia in the service of Africa's interests, just

causes, development and peace. On this solemn occasion, the People's Democratic Republic of Algeria proclaims its formal recognition of the Republic of Namibia from midnight 21 March 1990".

It should be added that, on the same day of this recognition, Algeria decided to sign a convention with the new State for the establishment of diplomatic relations, thereby becoming one of the first countries to establish such relations.

69. Algeria is convinced that the system of apartheid constitutes a serious threat to international peace and security and is an impediment to the achievement by the people of South Africa of their legitimate aspirations. It is important for the international community to maintain the pressure upon and the sanctions against the South African regime until the system of apartheid is completely dismantled and the inalienable rights of the black majority of the population in South Africa are restored.

B. State of relations with the racist regime of South Africa

70. Algeria maintains no relations of any kind with the Government of South Africa. It grants no visas and it denies entry into its territory to nationals of any country which practises apartheid. It also forbids its own nationals to visit any country practising apartheid. Furthermore, no one who is a national of a third country in respect of which the Algerian authorities have proof that it maintains relations of whatever kind with the apartheid regime may enter Algerian territory.

III. INFORMATION CONCERNING ARTICLE 4

A. Legislative, judicial and administrative measures

1. Measures taken to give effect to the undertaking to declare punishable by law all incitement to racial discrimination, as well as all acts of violence against any race

71. The Penal Code provides as follows:

"Article 296

"Any allegation or imputation of a fact injuring the honour or reputation of persons or entities to which the fact is imputed shall constitute defamation. Direct publication or reproduction of such an allegation or imputation shall be punishable, even if carried out in a manner that expresses doubt or if it relates to a person or entity not expressly named, but identifiable from the terms of the speeches, utterances, threats, written or printed matter, posters or notices complained of."

"Article 297

"Any offensive expression, term of contempt or invective which does not impute any fact shall constitute an insult."

"Article 298

"Any defamation committed against private persons shall be punishable by imprisonment for a period of five days to six months and/or a fine of DA 150 to DA 1,500. Any defamation committed against one or more persons belonging to an ethnic or philosophical group, or to a particular religion, shall be punishable by imprisonment for a period of one month to one year and a fine of DA 300 to DA 3,000, if the purpose is to incite hatred between citizens or inhabitants."

"Article 299

"Any insult to one or more persons shall be punishable by imprisonment for a period of six days to three months and/or a fine of DA 150 to DA 1,500."

72. The Civil Code provides as follows:

"Article 96

"A contract shall be void if its object is contrary to public order or morality."

"Article 97

"A contract shall be void if an undertaking is entered into without any obligation or for an obligation contrary to public order or morality."

"Article 124

"Any act which injures another person, places the person through whose fault the damage occurred under an obligation to make reparation."

2. Measures adopted to give effect to the undertaking to declare illegal and prohibit organizations or activities which incite racial discrimination

73. Act No. 90-14 of 2 June 1990 relating to the exercise of trade union rights stipulates as follows:

"Article 22

"Trade union organizations shall be prohibited from including in their statutes or from practising any discrimination that violates the fundamental freedoms of their members."

"Article 30

"A request for the judicial dissolution of a trade union organization may be made to the competent jurisdiction if the organization engages in activities that violate current law or activities other than those provided for in its statutes."

"Article 61

"Notwithstanding any other current legislative provisions, anyone who obstructs the enforcement of a decision relating to a dissolution, adopted in accordance with articles 31-33 above, shall be punished by a fine of DA 5,000 to DA 20,000 and/or two to six months' imprisonment."

74. Act No. 89-11 of 5 July 1989 relating to political assocations stipulates as follows:

"Article 3

"The programme and activities of all political associations ... must moreover proscribe intolerance, fanaticism, racism and incitement to or use of all forms of violence."

"Article 5

"No political association may be established or pursue its activities with the following bases or aims:

Sectarian or regionalist practices, feudalism and nepotism;

Behaviour contrary to Islamic morals and to the values of the revolution of 1 November 1954.

Accordingly, no political association may be established or pursue its activities on an exclusively religious, linguistic or regionalist basis, or on the basis of belonging to a particular sex or race or of having a specific occupational status."

"Article 26

"Notwithstanding other current legal provisions anyone who, contrary to the provisions of this Act, forms, directs or administers a political association of any kind or denomination, shall be liable to imprisonment for one to five years and/or a fine of DA 3,000 to DA 7,000."

75. Act No. 89-28 of 31 December 1989 relating to public meetings and demonstrations contains the following provisions:

"Article 9

"It is forbidden to abuse any of the symbols of the 1 November 1954 revolution, or to commit a breach of public order or morals during a meeting or demonstration."

"Article 10

"A public meeting shall appoint a board consisting of a chairman and at least two vice-chairmen; the board shall have the following responsibilities:

To ensure that the meeting takes place in an orderly manner and in compliance with the law;

To ensure that the constitutional rights of citizens are observed;

It must moreover prohibit any speech that constitutes a breach of public order or proper behaviour or that contains any dangerous elements likely to lead to the commission of a criminal offence. Article 21 lays down penalties of one to three months' imprisonment and a fine of DA 20,000 for any breach of the provisions of this Act, without prejudice to criminal prosecution for offences committed during or in connection with a public meeting."

"Article 24

"The organizers of demonstrations that degenerate into violence, and persons who publicly make oral or written calls to violence shall be held responsibie and be liable to the penalties laid down by article 100 of the Penal Code."

76. Act No. 90-31 of 4 December 1990 relating to associations stipulates as follows:

"Article 24

"Associations shall be prohibited from including in their statutes or from practising among their members any form of discrimination such as constitutes a breach of their fundamental freedoms."

"Article 41

"Only persons whose situation in respect of current legislation on the residence of aliens in Algeria is in order may establish or belong to a foreign association."

3. Measures taken not to permit public authorities or public institutions to promote or incite racial discrimination

77. The Constitution contains the following provisions:

"Article 8

"The people shall endow itself with institutions whose aims shall be as follows:

...

To safeguard and consolidate national identity and unity;

To protect the fundamental freedoms of citizens and to promote the social and cultural development of the nation ... ."

"Article 9

"Institutions shall prohibit the following:

Feudal, regionalist and nepotistic practices;

The establishment of relationships based on exploitation and dependence;

Practices contrary to Islamic morals and to the values of the November revolution."

"Article 14

"The founding principles of the State are democracy and social justice."

"Article 23

"The State is responsible for the security of all citizens. It shall protect them abroad."

"Article 48

"All citizens are guaranteed equal access to public office and employment, without any conditions other than those laid down by law."

"Article 94

"Pursuant to the powers vested in it by the Constitution, the National People's Assembly shall keep faith with the mandate received from the people and remain constantly attentive to the people's aspirations."

78. Article 44 of Act No. 90-08 of 7 April 1990 relating to communes stipulates that decisions taken in violation of the provisions of the Constitution are void ab initio.

79. In turn, Act No. 90-09 of 7 April 1990 relating to the wilaya stipulates in its article 51 that decisions taken in violation of a law or regulation are also void ab initio. Article 94 of the same Act contains the following provision: "In the exercise of its functions, the wali shall, in the manner and subject to the conditions laid down by law, and within the limits of its competence, ensure the protection of the rights and freedoms of citizens."

80. Lastly, article 107 of the Penal Code stipulates that "If a public official has ordered or committed an arbitrary act or an act that violates either individual freedom or the civil rights of one or more citizens he shall be liable to a prison sentence of from 5 to 10 years."

B. Measures taken to give effect to General Recommendation I adopted by the Committee at its fifth session on 24 February 1972

81. As soon as it became independent Algeria adopted the prohibition against racial discrimination as a constitutional principle, from which national legislation as a whole takes its inspiration.

C. Information in response to decision 3 (VII) adopted by the Committee at its seventh session on 4 May 1973

82. The relevant provisions of the Penal Code are as follows:

"Article 298, paragraph 2

"Any defamation committed against one or more persons belonging to an ethnic or philosophical group, or to a particular religion, shall be punishable by imprisonment for a period of one month to one year and a fine of DA 300 to DA 3,000, if the purpose is to incite hatred between citizens or inhabitants."

"Article 298 bis

"Any insult levelled against one or more persons belonging to an ethnic or philosophical group, or to a particular religion, shall be punishable by imprisonment for a period of five days to six months and/or a fine of DA 50 to DA 1,500."

IV. INFORMATION CONCERNING ARTICLE 5

83. The overriding principle of equality before the law is enshrined in article 28 of the Constitution, which stipulates that "Citizens are equal before the law and no discrimination may be made on grounds of birth, race, sex, opinion or any other condition or personal or social circumstance."

A. Equality before the organs of justice (art. 5 (a))

84. The relevant provisions of the Constitution are as follows:

"Art. 130: The judiciary shall protect society and freedoms. It shall guarantee protection of the fundamental rights of one and all."

"Art. 131: Judicial decisions shall be substantiated and they shall be handed down at a public hearing."

"Art. 138: Judges shall obey only the law."

B. Right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual, group or institution (art. 5 (b))

85. Entitlement to this right is secured by several articles of the Constitution, which are summarized below:

"Art. 21: Appointments to serve State institutions may not constitute a source of profit or a means of serving private interests."

"Art. 22: Abuse of authority shall be punished by the law."

"Art. 23: The State is responsible for the security of all citizens. It shall protect them abroad."

"Art. 32: Individual or joint defence of basic human rights and individual and collective freedoms is guaranteed."

"Art. 33: The State guarantees the inviolability of the person. Any form of physical or mental violence is proscribed."

"Art. 34: Offences against rights and freedoms and offences against the physical or mental integrity of the person are punishable by law."

"Art. 44: No one may be prosecuted, arrested or detained in any circumstances other than those laid down by law and in the manner determined by law."

"Art. 45: Where criminal investigations are concerned, custody shall be subject to judicial control and may not exceed 48 hours. Persons held in custody may immediately contact their family. The period of custody may only be extended exceptionally, and subject to the conditions laid down by law. When the period of custody expires, the detainee must undergo a medical examination if he so requests, and shall in all cases be informed of his right to such an examination."

"Art. 46: The State shall be liable for judicial error. The law shall determine the conditions and form of redress."

86. The effectiveness of constitutional guarantees is reinforced by pluralism, the separation of powers and the freedom of association established by the Constitution.

87. The remedies available to anyone who claims that he has been the victim of a violation of the rights set out in the Convention are the same as are available under ordinary law. Accordingly, attention should be drawn to the criminal actions available under substantive criminal law applicable in Algeria. In addition to the specific provisions of the Penal Code, which punishes various violations of rights and freedoms and of human integrity, it should be pointed out that the provisions of the Convention are an integral part of criminal law and may be directly invoked before the courts. Public right of action to enforce sentences is initiated and exercised by judges in

whom it is vested by law. Public right of action may also be exercised by the injured party who may moreover file a criminal indemnity action for damages. The criminal indemnity action and the public action may proceed simultaneously or separately. In addition, the courts hear appeals against acts by the authorities, in accordance with the principle enshrined in article 134 of the Constitution. Lastly, appeals and applications for judicial review may be made against court decisions.

88. The Code of Penal Procedure contains a variety of provisions to determine the manner in which public right of action is exercised (see section V below, Information concerning article 6).

C. Political rights (art. 5 (c))

89. The Constitution contains a number of provisions dealing with political rights, in particular the right to participate in elections:

"Art. 1: Algeria is a democratic people's republic."

"Art. 6: All powers have their source in the people. National sovereignty is vested in the people."

"Art. 7: Constituent powers belong to the people. The people exercise their sovereignty through the institutions they bestow on themselves. The people exercise that sovereignty by referendum and through their elected representatives. The President of the Republic may appeal directly to the expression of the will of the people."

"Art. 10: The people choose freely their representatives. The representation of the people has no limits other than those set by the Constitution and by the law governing elections."

"Art. 11: The legitimacy of the State and its reason for existence stem from the will of the people."

"Art. 14: The State is based on the principles of democratic organization and social justice. The elected Assembly constitutes the framework in which the will of the people is expressed and control over the activities of public authorities is exercised."

"Art. 16: The elected Assembly constitutes the focus of decentralization and the seat of participation by citizens in the management of public affairs."

"Art. 47: Every citizen who complies with the legal requirements is entitled to vote and to stand for election."

"Art. 48: Equal access to public office and employment is guaranteed to all citizens, without any conditions other than those laid down by law."

"Art. 68: The President of the Republic is elected by universal, direct and secret suffrage. Election shall be by an absolute majority of the votes cast."

"Art. 95: The members of the National People's Assembly (Parliament) are elected by universal, direct and secret suffrage."

90. The right to take part in the management of public affairs is in addition guaranteed by the multi-party system and the organization of powers instituted by the Constitution.

Political associations

91. Political associations are governed by Act No. 89-11 of 5 July 1989 promulgated in implementation of article 40 of the Constitution which enshrines the multi-party system. The main provisions of that law are as follows:

"Article 2

"The purpose of every political association shall be, in the framework of the provisions of article 40 of the Constitution, to group Algerian citizens who, assembled round a political programme and acting for no pecuniary gain, strive to participate in political life by democratic and peaceful means."

"Article 3

"Every political association must, through its objectives, contribute:

- To safeguarding and consolidating the national independence, territorial integrity and national unity;
- To consolidating the sovereignty of the people and respect for its free choices;
- To protecting the republican form of government and the fundamental freedoms of citizens;
- To respecting the democratic system;
- To protecting the national economy against all forms of malversation, misappropriation, monopolization or unlawful confiscation.

The association must, in addition, through its programme and activities, combat intolerance, fanaticism, racism and incitement and/or resort to violence in all its forms."

"Article 5

"No political association may be established or pursue its activities with the following bases or aims:

- Sectarian or regionalist practices, feudalism and nepotism;

- The establishment of relations of exploitation and ties of dependency;

- Behaviour contrary to Islamic morals and to the values of the revolution of 1 November 1954.

Accordingly, no political association may be established or pursue its activities on an exclusively religious, linguistic or regionalist basis or on the basis of belonging to a particular sex or race or of having a specific occupational status."

"Article 6

"The establishment, action and activities of all political associations must take place within strict respect for the Constitution and the laws in force.

To that end, political associations shall renounce any attempt to attack security and public order or the rights and freedoms of others.

The said associations shall renounce any attempt to divert their resources to the setting up of a military or paramilitary organization."

"Article 9

"Membership shall be open to every Algerian who has reached electoral majority, with the exception of members of the Constitutional Council, judges, members of the armed forces and officials of the security services."

"Article 10

"Political associations shall be organized on the basis of democratic principles."

92. A constituent declaration shall be required for the establishment of every association; it shall be effected by filing an application, together with the articles of association, with the Minister for the Interior, who, on verifying its conformity with requirements, shall see to the publication in the Offical Journal of the receipt of the application, mentioning in particular the name and seat of the association. Such publication shall take place within two months of filing the application, failing which, the Minister of the Interior shall refer the matter to the Administrative Chamber of the Court of Algiers, which shall decide thereon within one month of such referral. The same Chamber shall deal with any requests for suspension and/or dissolution of an association.

93. The organization of powers shall be governed by the principle of separation of the executive, the legislature and the judiciary. The judiciary shall be independent (see above, Part One of the report).

94. With regard to the executive, the President of the Republic, Head of the State, shall be elected by universal, direct and secret suffrage. Elections shall be by an absolute majority of the votes cast. The other modalities for the election of the President shall be determined by law. The President of the Republic shall be elected for a term of five years and can be re-elected. He shall appoint the Head of Government. The latter shall select the members of his Government and submit their names to the President of the Republic, who shall appoint them. The Head of Government shall submit his programme for approval to the National People's Assembly which, to that end, shall hold a general debate. In the event of his programme not being approved, the Head of Government shall submit the resignation of his Government to the President of the Republic.

95. Legislative power shall be vested in a single assembly (the National People's Assembly) which shall have sovereign authority for drawing up and approving legislation and which supervises the action of the Government. Members of the Assembly are elected by universal, direct and secret suffrage for a term of five years. The modalities for the election of deputies shall be determined by law (see para. 99 below).

The Electoral Code

96. The Constitution specifies that every citizen who complies with the legal requirements has the right to vote and to be elected. Those requirements are spelled out by Act No. 89-13 of 7 August 1989 containing the Electoral Code, as supplemented and amended by Act No. 90-06 of 2 April 1990. The latter law revised the previous electoral law with the aim of making better allowance for the multi-party system. It should be mentioned that the new law adopted by the Assembly was submitted by the President of the Republic to the Constitutional Council, which dealt with the issue of the constitutionality of its articles 61, 62, 82, 84, 85, 86, 91, 108, 110 and 111 (decision No. 1 DL.CC.89 of 20 August 1989 relating to the Electoral Code). The Council declared articles 86, 91, 108, 110 and 111 unconstitutional. By the same decision, the Constitutional Council formulated new texts for articles 86, 91, 108 and 110. As for article 111, its provisions became completely inoperative following the Council's decision in conformity with article 159 of the Constitution.

97. The Electoral Code as reformulated by the Constitutional Council has strengthened the right recognized by the Constitution to vote and to be elected, while at the same time laying down general rules for elections. In addition, it has defined the conditions for carrying them out, as well as electoral offences and the penalties therefor. The general provisions of that law are the following:

"Article 2

"Suffrage shall be universal, direct and secret."

"Article 3

"All Algerian men and women who are over the age of 18 at the date of the ballot, who enjoy their civil and political rights and who suffer from none of the disabilities specified by the laws in force have the right to vote."

"Article 5

"The following shall not be entered on the electoral roll: individuals convicted of a crime or offence and sentenced to a penalty of imprisonment accompanied by disqualification from the exercise of voting rights pursuant to articles 8 and 14 of the Penal Code; persons whose conduct during the national liberation revolution was contrary to the interests of the country; persons declared bankrupt and not discharged; persons committed to mental care institutions and persons placed under judicial disability."

98. The Electoral Code deals with the organization of elections to local assemblies (communes and wilayat) under its articles 61-83. These assemblies are elected for five years by the proportional representation system by a single ballot, with additional seats for the majority. Any elector who is over 25 years of age on the day of the ballot shall be eligible. The names of candidates must be submitted by filing, at the level of the wilaya, a list conforming with the legal requirements. The said list must be approved by one or more political associations; otherwise, the candidate must have the support of at least 10 per cent of the electors of his district, attested by their signatures.

99. The Electoral Code also governs the election of members of the National Assembly. The Assembly is elected by universal ballot and by a majority vote in two rounds, with additional seats for the majority on the first round. Candidates must be 30 years of age and be of Algerian nationality (art. 86). The Constitutional Council took the view that the requirements initially laid down by the law (Algerian nationality of origin for the candidate and his spouse) were unconstitutional and contrary to the provisions of the international conventions relating to human rights ratified by Algeria, including the 1966 International Covenants and the African Charter on Human and Peoples' Rights. The Constitutional Council held that "it is for the voters to assess the aptitude of each candidate to perform public office" and declared contrary to the Constitution the requirement of nationality of origin for a candidate for election to the legislature. In addition, it considered that the requirement of Algerian nationality of origin on the part of the spouse was not consistent with the Constitution in that it was both extraneous to the candidate and of a discriminatory character.

100. The Electoral Code contains provisions relating to the election of the President of the Republic and on consultation of the electorate through a referendum (arts. 104-122). Elections for the President take place in two rounds of uninominal balloting by an absolute majority of the votes cast. Each candidature is declared by an application lodged with the Constitutional Council. The Constitutional Council has ruled that the application does not have to be supported by a certificate of Algerian nationality of origin of the

spouse as specified by article 108, paragraph 3, since that paragraph was declared unconstitutional. The Council considered that that requirement "could not be treated as a modality for the presidential election and constitutes in fact an additional condition for eligibility; moreover, it introduces a discrimination which is contrary to the provisions of the Constitution and of the Covenants" of 1966 relating to human rights, which have been ratified by Algeria. In addition, the Constitutional Council declared unconstitutional the provision of article 110 requiring candidates to be expressly approved or presented by one or more political associations. The Council considered that "the obligation, set forth in article 110, for a candidate to the Presidency of the Republic to produce a statement of approval eliminates in practice candidates who are not members of political associations; this constitutes in the circumstances an obstacle to the exercise of the right enshrined in article 47 of the Constitution".

101. The Code also governs the modalities for organizing electoral campaigns (arts. 123-132) and contains provisions relating to financial matters. Electoral campaigns are financed by means of resources provided by party contributions, the income of candidates and possible assistance from the State granted on an equitable basis.

102. Lastly, the Code contains some provisions for penalties applicable to offences against the law (frauds with respect to electoral rolls; fraudulent declarations; tampering with ballots; bearing of arms in the polling stations; siphoning off of votes; interference with voting operations; outrages and violence against the polling officers).

103. There is no discrimination regarding access to State responsibilities. These are open to all citizens who fulfil the criteria of ability, integrity and devotion to duty (Act. No. 78-12 of 5 August 1978 relating to the general workers' statute).

104. Decree No. 85-59 of 23 March 1985 enacting a model statute for persons working in public institutions and administrations lays down requirements for recruitment and promotion which ensure equality of opportunity for all Algerian citizens. Article 31 relating to recruitment states as follows:

> "No one may be recruited for a public institution or administration unless that person:
>
> 1. Possesses Algerian nationality;
>
> 2. Enjoys political rights and is of good moral standing;
>
> 3. Has the qualifications required for the post in question;
>
> 4. Fulfils the age and physical aptitude requirements for the exercise of the function involved;

5. Can show that he has complied with National Service obligations.

The relevant special provisions may, where appropriate, lay down for access to certain civil service branches the requirement of acquisition of Algerian nationality going back a specified period of time."

D. Other civil rights (art.5 (d))

1. Right to freedom of movement and residence

105. Article 41 of the Algerian Constitution provides that "Every citizen enjoying his civil and political rights has the right to free choice of residence and freedom of movement on the national territory. Citizens have a guaranteed right to enter and leave the national territory".

106. Algerian positive law sets no limits on the right of citizens to move freely throughout the national territory, to the right to choose freely where they will reside, or the right to leave their country and enter it freely. The only formalities imposed on leaving the national territory are routine customs inspections and checks by frontier police, and the possession of a valid ticket for the journey.

107. The main penalties imposed in criminal judgements may, in some cases, be accompanied by supplementary penalties, including a restricted residence order and a banishment order. The restricted residence order is defined in article 11 of the Penal Code as "the obligation imposed on a convicted person to remain within the territorial confines fixed in the judgement. Its duration may not exceed five years. The residence obligation takes effect from the date on which the main penalty expires, or on which the convicted person is released. The sentence is notified to the Ministry of the Interior, which may issue temporary permits for travel within the national territory". According to article 12 of the Code, the banishment order consists of "forbidding a convicted person to be in certain places. Its duration may not exceed five years for a misdemeanour or 10 years for a criminal offence, except where otherwise provided by law". The convicted person must be notified of the banishment order.

108. Article 64 of the Constitution provides: "Every foreigner who is entitled to be present on the national territory shall enjoy the protection of the law for his person and his property". Article 65 stipulates that: "No one may be extradited, except under and in conformity with the law on extradition". Article 66 emphasizes that "under no circumstances may a political refugee in lawful enjoyment of the right of asylum be surrendered or extradited". A foreigner who is lawfully resident in Algeria may not be expelled, except in the circumstances prescribed by law and in conformity with the rules enshrined in the various international instruments and agreements to which Algeria has acceded.

109. It is pointed out that Algeria is a party to several international conventions on refugees and stateless persons, including the Geneva Convention relating to the Status of Refugees of 28 July 1951; the Convention relating to the Status of Stateless Persons; and the OAU Convention governing the Specific Aspects of Refugee Problems in Africa.

110. Article 5 of the Civil Code states that "All persons residing on the national territory are bound to comply with police and security laws". The movement and residence of foreigners are governed by Ordinance No. 66-211 of 21 July 1966 on the situation of foreigners in Algeria, Ordinance No. 67-190 of 27 September 1967, and Ordinance No. 75-80 of 15 December 1975 on the enforcement of banishment orders and restricted residence orders issued by the courts. These are rules of general application which therefore apply to all foreigners who have entered Algeria in a lawful manner, without the need to refer to an international agreement. Moreover, Algeria has concluded some 30 bilateral agreements on mutual judicial assistance (for instance, with France, Tunisia, Egypt, Mauritania, Belgium, Bulgaria, Poland, Hungary, Romania, Czechoslovakia, Syria, the USSR, Yugoslavia, Mali, the United Arab Emirates, the Niger, Libya, Turkey and Cuba).

111. A foreigner may not be expelled except pursuant to a decision taken in accordance with the above-mentioned Ordinance No. 66/211, article 20 of which states: "The expulsion of a foreigner from the national territory requires an order from the Ministry of the Interior". A foreigner may be expelled if his presence in Algeria constitutes a threat to public order; if he has been found guilty of a crime or offence by final judgement of a court and sentenced to a term of imprisonment; if, following the refusal or withdrawal of a residence permit, he has not left the national territory within 15 days of being notified of the measure, without being granted any extension of the time-limit or being able to show that the delay is attributable to force majeure. The person concerned must be notified of the expulsion order; a foreigner who is able to show that it is impossible for him to leave the national territory may be required, by order of the Ministry of the Interior, to reside at a prescribed place (arts. 12, 20, 21 and 22 of Ordinance No. 66/211) until he is able to comply with the expulsion order.

112. Article 13 of the above-mentioned Ordinance establishes the principle that "a foreigner may reside and move freely on the territory of Algeria", provided that he produces to the public authorities, on request, documentary evidence that he has permission to reside in Algeria, and that he notifies his address, and any change of address, to the police station or the town hall in the place where he is residing (arts. 14 and 15).

2. Right to leave any country

113. The formalities for leaving the national territory consist simply of routine customs inspections and checks by frontier police, and the possession of a valid ticket for travel. In order to guarantee the physical and moral safety and the human dignity of its nationals abroad, the Government of Algeria, has concluded a series of agreements with the Governments concerned for the purpose of regulating the movement, employment and residence of Algerians abroad, on a mutually agreed basis which guarantees the protection and dignity of Algerian nationals. In no circumstances may an Algerian national be arbitrarily deprived of the right to enter his own country.

3. Right to nationality

114. Article 29 of the Constitution provides that "Algerian nationality is defined by law. The conditions under which Algerian nationality is acquired,

retained, lost or forfeited are defined by law." These conditions are laid down in the Nationality Code (Ordinance No. 70-86 of 15 December 1970), article 1 of which states that the conditions for holding Algerian nationality are governed by law, and also by international treaties and agreements duly ratified and published. By virtue of the Constitution itself, these international instruments prevail over internal legislation.

115. With particular reference to children, article 6 of the Nationality Code stipulates that:

"Algerian nationality is acquired through descent by:

(1) A child born of an Algerian father;

(2) A child born of an Algerian mother and an unknown father;

(3) A child born of an Algerian mother and a stateless father".

Article 7 provides that:

"Algerian nationality is acquired through the birth in Algeria of:

(1) A child of unknown parentage born in Algeria; a newborn child found in Algeria shall be presumed, unless proved otherwise, to have been born in Algeria;

(2) A child born in Algeria of an Algerian mother and a foreign father who was himself born in Algeria, except where the child repudiates his Algerian nationality in the year preceding his coming of age."

Article 17 stipulates that the minor children of persons who acquire Algerian nationality become Algerian at the same time as their parents. Furthermore, the minor unmarried children of a person who has resumed Algerian nationality, and who are living in the same household, automatically regain or acquire Algerian nationality. Finally, Algerian nationality may be granted to the minor children of a naturalized foreigner under a deed of naturalization. They may, however, renounce Algerian nationality at any time between their eighteenth and twenty-first birthdays.

4. Right to marriage and choice of spouse

116. Men and women have a recognized right to marry and to found a family from the age of puberty. Article 4 of the Family Code states that: "Marriage is a contract legally entered into between a man and a woman. The aims of marriage include founding a family based on mutual affection and support, providing moral protection for both spouses and preserving family ties." In order to protect girls from marriage before they reach puberty, article 7, paragraph 1 of the Code states that: "Men and women are deemed capable of marriage, in the case of men, on reaching the age of 21 and, in the case of women, on reaching the age of 18." Paragraph 2 of the same article explains: "However, a court may waive the age requirement if special reasons exist, or in cases of necessity."

117. One of the constituent elements of marriage is the free and full consent of the intending spouses. According to the Family Code, a marriage shall be declared void if one of its constituent elements is lacking (art. 32). Article 9 provides that: "Marriage is contracted through the consent of the intending spouses in the presence of the matrimonial guardian and of two witnesses, and through the provision of a dowry." Article 10 states: "Consent stems from a request made by one of the parties and its acceptance by the other, expressed in any language signifying lawful marriage. A request and a consent expressed by a handicapped person in any written form or by gesture which signifies marriage in language or custom, shall be deemed valid." The deed of marriage is drawn up before a notary or a public official legally authorized for the purpose, subject to the provisions of article 9 of this law (art. 18).

5. Right to own and inherit property

118. Article 49 of the Constitution guarantees the right of private ownership. The right of inheritance is guaranteed. Waqf property and foundations are recognized, and the use made of them is protected by law.

6. Right to freedom of thought, conscience and religion

119. Article 35 of the Constitution provides that freedom of conscience and freedom of opinion are inviolable. Freedom of thought, conscience and religion is guaranteed by Algerian law.

120. Although Islam is the State religion (art. 2 of the Constitution), article 35 of the Constitution establishes that freedom of conscience and freedom of opinion are inviolable. Hence the freedom of communities living in Algeria which profess other religions to worship and to practise their religion is respected, and enjoys the protection of the Ministry of Religious Affairs.

7. Right to freedom of opinion and expression

121. Freedom of opinion is inviolable under article 35 of the Constitution: "Freedom of conscience and freedom of opinion are inviolable." Article 36 of the fundamental law guarantees the freedom of citizens to engage in intellectual, artistic and scientific creation. Copyright is also protected by this article. Freedom of expression is guaranteed by article 39 of the Constitution, which provides that "Citizens shall enjoy the freedoms of expression, association and assembly".

122. Information is governed by Act No. 90-07 of 3 April 1990, which amended Act No. 82-01 of 6 February 1982 on the Information Code, in order to give full effect to constitutional provisions relating, among other matters, to the multi-party system, to the effective participation of all in political, economic, social and cultural affairs, and to freedom of conscience, of opinion, and of intellectual, artistic and scientific endeavour, as well as to freedom of expression, association and assembly. The new law provides that "The right to information shall be exercised freely, while respecting the dignity of the human person" through any information medium, whether press,

radio or television; newspapers and organs of information may belong both to the public sector and to political organizations and to individuals and corporations under Algerian law (arts. 3 and 11).

123. The right to information is defined in article 2 as follows: "The right to information consists of the right of the citizen to be fully and objectively informed of facts and opinions which concern society at the national and international levels, and of the right to participate in information by exercising the fundamental freedoms of thought, opinion and expression, in conformity with articles 35, 36, 39 and 40 of the Constitution." This definition of information extends to both facets of the right to information: the right to inform and the right to be informed. By linking them indissolubly together, the lawmakers have extended the scope of this fundamental freedom. This right is ensured, in accordance with article 4, by: (a) the public-sector newspapers and organs of information; and (b) the newspapers and organs of information which belong to political organizations, or are established by them. It is exercised through any information medium, whether press, radio or television.

124. The limits placed on the exercise of this right are defined, in particular, in articles 3 and 40 of the Act. Article 3 states that "The right to information shall be exercised freely, while respecting the dignity of the human person and the requirements of foreign policy and of national defence". Article 40 states:

> "In the exercise of his occupation, a professional journalist must ensure that ethics and professional standards are strictly observed. In particular, he must:
>
> Respect the constitutional rights and individual freedoms of citizens;
>
> Strive to ensure, at all times, that information is full and objective;
>
> Correct any report which proves to be inaccurate;
>
> Comment honestly and objectively on facts and events;
>
> Avoid any direct or indirect advocacy of racism, intolerance or violence;
>
> Refrain from plagiarism, slander, defamation and scandal;
>
> Refrain from exploiting the public standing of his profession for personal ends or for material gain.
>
> A journalist is entitled to refuse editorial instructions emanating from any source other than the editors in charge".
>
> The law also governs the right of reply and of correction.

125. Any periodical publication may be freely issued, subject only to a prior declaration, for the purposes of registration and verification of its accuracy 30 days before the appearance of the first issue (art. 14). Periodical and specialist publications, whether national or foreign, may not carry any

illustration, story, report or insertion which are contrary to human rights, or any defence of racism; nor may such publications carry advertisements or publicity likely to incite violence and wrongdoing (art. 26). "Approved institutions, organizations or associations responsible for human rights and the protection of children may exercise the right of instituting civil proceedings". (art. 27). The exercise of the journalistic profession is protected. In the event of violence or aggression, attempt to corrupt or intimidate, or the exercise of undue pressure on a professional journalist in the course of his duties, the employing organization must lodge a civil complaint before the competent court. Professional journalists have a recognized right of access to sources of information (art. 35). This right does not, however, authorize them to disclose any information which may impugn the rights and constitutional freedoms of citizens (art. 36). Hence any direct or indirect defence, through any information medium, of acts categorized as crimes or offences will be punishable by a term of imprisonment of one to five years, and a fine (art. 96).

126. Since the new Information Act came into force, many new dailies and periodicals have been added to the national press, some of which have chosen to be independent, while others espouse a political line.

8. Right to freedom of peaceful assembly and association

127. The right of peaceful assembly is recognized in Algeria under article 39 of the Constitution: "The citizen is guaranteed the freedoms of expression, association and assembly." The modalities for exercising them are governed by the provisions of Act No. 89-28 of 31 December 1989 concerning public meetings and demonstrations (arts. 2-20). The Act indicates that Algerian legislation has established a flexible procedure for the exercise of this right, which is subject only to prior notice (three days for a meeting, five days for a demonstration). Article 3 of the Act lays down the principle that "public meetings shall be held freely". The Act also stipulates the restrictions laid down by the legislature, concerning security measures, steps to keep order and measures required for enforcing the law, the citizen's constitutional rights and the preservation of moral standards.

128. Everyone has the right to associate freely with others, including the right to form and join trade unions for the protection of his interests. Article 53 of the Constitution states that trade-union rights are recognized for all citizens; article 39 guarantees freedom of association. In addition, article 40 provides that "The right to create political associations is recognized". However, this right cannot be invoked to infringe basic freedoms, national unity, territorial integrity, the independence of the nation and the sovereignty of the people."

129. The establishment of associations had been subject to the conditions laid down in Ordinance No. 71-79 of 3 December 1971 and to prior approval by the Ministry of the Interior. This Ordinance was replaced on 29 July 1987 by Act No. 87-15, supplemented by implementing decree No. 88-16 of 2 February 1988. These texts defined the framework for the exercise of freedom of association and made the original conditions and modalities more flexible. Thus, the prior approval procedure was eliminated for local associations. It was still required, however, for any nation-wide associations and any whose purpose

involved an area of activity that could be performed by a public service. Although approval had been granted quite liberally, practice had shown that the procedure could give rise to delays that were imcompatible with the full exercise of the right and freedom of association enshrined in the Constitution. Thus, a new law was enacted by the National People's Assembly (Act No. 90-31 of 4 December 1990 relating to associations), which deals with this aspect of the problem and therefore eliminates the prior approval required under earlier laws.

130. Act No. 90-31 mentioned above is the one that governs and determines the modalities for the formation, organization and functioning of associations. The following are the main provisions of the Act:

(a) Association is defined as "an agreement governed by the laws in force, under which natural or legal persons group together on a contractual, non-profit-making basis. To this end and for a specified or indefinite period, they pool their knowledge and means for the promotion of professional, social, scientific, religious, educational, cultural or sporting activities. The purpose of the association should be determined precisely and its name should correspond to this purpose" (art. 2).

(b) All persons of full age can found, administer or direct an association if they are of Algerian nationality and in possession of their civil and political rights, and have not behaved in a way contrary to the interests of the national liberation struggle (art. 4).

(c) "Any association founded for a purpose contrary to the established institutional system or to public order, sound morals or the laws and regulations in force, or whose founder members do not fulfil the conditions stipulated in article 4, shall be null and void" (art. 5).

(d) Associations shall be formed freely (art. 6) and are legitimately formed after a declaration of establishment is filed by its founder members with the wali of the main wilaya for local associations and the Minister of the Interior for national associations, issue of a certificate of registration within a maximum time-limit of 60 days and compliance with the formalities of publication in at least one national daily (arts. 7 and 10). If the competent authority finds that the association was illegally formed, it is bound within a maximum of eight days after the expiry of the 60-day waiting period for the issue of the certificate of registration to refer the matter to the territorially competent administrative chamber of the Court, which must rule within 30 days after referral (art. 8). The association is thereby covered against the risk of being arbitrarily refused the issue of the certificate, especially as, if the court is not appraised, article 8 stipulates that "the association is considered as legitimately formed at the expiry of the [60-day] time-limit".

(e) Associations are endowed with legal and civil personality and can, in particular, go to law, conclude contracts, acquire assets for the exercise of their activities and receive donations and bequests; they can publish and distribute newsletters, journals and other information documents related to

their purpose; associations of national scale can also join international associations with the agreement of the Minister of the Interior (arts. 16, 19, 91 and 26).

(f) It is prohibited for any natural or legal person to interfere in the functioning of an association (art. 15). Associations, for their part, are bound to report regularly to the public authority concerned on any changes in their statutes, governing bodies, membership or funding sources (arts. 17 and 18).

(g) With the exception of cases of voluntary dissolution, the suspension and dissolution of an association can be ordered by judicial means only, at the request of the public authority or on a complaint by a third party (arts. 32-38);

(h) Special provisions are established for foreign associations (arts. 39-44). An association is considered to be foreign when it has its headquarters abroad or is wholly or partly managed by foreigners (art. 39). The establishment of such an association is dependent on prior approval by the Minister of the Interior (art. 40). Only persons legitimately in the country can found or be members of a foreign association (art. 41). Approval can be suspended or withdrawn by the Minister of the Interior if the assocation's activites depart from its statutes or undermine national institutions, unity or values, public order or moral standards (art. 42).

131. There are over 28,500 local and national associations in Algeria. Their activities cover all sectors: economic, social, cultural, religious, scientific, technical and professional. With the exception of the very many professional associations, these associations are mainly found in the following sectors: health protection; maladjusted children; the disabled; nature; the environment; archeological sites; promotion of sports and recreational activities; music; drama; cinema; promotion of charitable works, in particular for abandoned children; promotion of the national language and other languages; defence of the rights of women; protection of children and human rights in general, etc.

E. Economic, social and cultural rights (art. 5 (e))

132. Algeria ratified the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 by Presidential Decree No. 89-67 of 16 May 1989, following approval by the National People's Assembly (Act. No. 89-08 of 25 April 1989). As has been indicated above, one of Algeria's first acts after independence was to expunge from the national legislation any laws or regulations inherited from the colonial period that were deemed to be racist or discriminatory. Since then, it has given itself a series of new laws fully covering political, economic, social and cultural areas, in perfect harmony with the fundamental principle of non-discrimination and respect for human rights.

133. In addition to the fact that most of the rights set forth by the Covenant have already been enshrined in the Constitution and given effect by

the national legislation in force, it should be mentioned that under the Constitution, international conventions ratified by Algeria have higher authority than the law.

1. Right to work

134. The right to work is recognized in Algeria under article 52 of the Constitution: "All citizens have the right to work. The right to occupational protection, safety and hygiene is guaranteed by law. The right to rest is guaranteed. The law determines the modalities of its exercise".

135. Act No. 78-12 of 5 August 1978 concerning the general workers' statute contains several relevant provisions:

"Article 6

"The right to work is guaranteed in conformity with the Constitution."

"Article 7

"The law guarantees workers' rights. Workers are equal in rights and duties. They shall receive the same pay and benefits for the same work performed with equal skills and output."

"Article 10

"The State shall provide all workers with job stability and security under the conditions laid down in this Act and through the rules governing its application."

2. Right to form trade unions

136. Article 53 of the Constitution stipulates that trade union rights are recognized for all citizens. The right to form and join trade unions is guaranteed by the Constitution. The modalities for the exercise of trade union rights are stipulated in Act No. 90-14 of 2 June 1990. Algeria is also a party to the ILO Convention of 1948.

137. The Act defines the modalities for exercising the trade-union rights applicable to all employed workers and employers. The following are the main provisions of the Act:

"Article 2

"Employed workers on the one hand and employers on the other, of the same profession, branch or sector of activity, have the right to group themselves in trade unions, for the purpose of defending their material and moral interests."

"Article 3

"Employed workers on the one hand and employers on the other have the right to found trade-union organizations for this purpose, or to join, freely and voluntarily, existing trade-union organizations on the sole condition that they comply with the legislation in force and the statutes of these organizations."

138. A trade union is formed by a constituent general assembly comprising its founder members (art. 7); it is declared to have been formed after a declaration of establishment is filed with the Wali or the Minister of Labour, the issue of a certificate of registration and completion of the formalities of publication (arts. 8-10). It has legal personality and juridical capacity with the powers they entail. It can publish and disseminate bulletins and other information documents. Suspension and dissolution (other than voluntary) can be ordered only through judicial means, upon request by the public authority or any other interested party (arts. 27-33).

139. Trade unions have the right to join international, continental and regional trade union organizations pursuing the same or similar goals.

140. The law also provides for facilities and measures for protecting trade-union delegates and members in articles 46 to 57 (time off for the exercise of their mandate; arrangements for holding meetings; protection of workers against any discrimination because of their trade-union activities; prohibition against threats or pressure; prohibition against dismissal, transfer or disciplinary sanctions against a trade-union delegate, etc.).

3. Right to housing

141. Act No. 78-12 of 5 August 1978 concerning the general workers' statute stipulates:

"Article 186

"In the event that a worker is ill or incapacitated or is laid off, the right to remain in the same premises or to be given decent housing is guaranteed by law. In the event of the worker's death, his legal dependants shall have enjoyment of this right."

142. Act No. 89-18 of 1 August 1987 concerning the mutual insurance system stipulates:

"Article 18

"Mutual insurance companies must provide at least one of the following services in their statutes:

Collective action in the housing sphere;".

"Article 19

"Members may receive a housing loan from their mutual insurance companies."

143. Act No. 90-08 of 7 April 1990 regarding the commune stipulates:

"Article 106

"The commune is competent in the housing sphere to establish and organize conditions fostering public and private real estate promotion.

To that end it shall:

Take shares for the establishment of real estate firms and construction companies in conformity with the law;

Foster the establishment of real estate cooperatives in the territory of the commune;

Encourage and organize activities by residents' associations for the protection, maintenance and/or renovation of buildings or neighbourhoods;

Place at the disposal of promoters' urban planning rules and regulations and any data related to the activities they wish to undertake;

Initiate or participate in the promotion of housing programmes."

144. Act No. 90-09 of 7 April 1990 concerning the Wilaya stipulates:

"Article 82

"The people's assembly of the Wilaya shall support the communes in implementing their housing programmes.

On that basis it shall:

Take shares for the establishment of real estate firms and construction companies in conformity with the legislation in force;

Foster the development of the cooperative movement in the housing sphere;

Initiate or participate in the promotion of rental housing programmes;

Participate in renovation and restoration activities in collaboration with the communes."

145. Act No. 90-25 of 18 November 1990, the Land Act, is in keeping with the comprehensive reforms of the national economy in general, and a new approach to the land issue as regards action by the State, local communities and private owners, in particular.

146. The three main features of the Act are as follows:

1. Elimination of the communes' monopoly over land reserves, the institution of a free land market and prohibition against direct land management by the communes. Thus all natural or legal persons may make land transactions based on market prices and the wishes of the contracting parties provided that they comply with the laws and regulations in force.

2. The obligation for the communes to establish a public body for managing their land portfolio and to take an inventory of land assets. This will enable the communes to free themselves of the constraints of land management and deal with other tasks. The communes' functions will be directed towards supervision and enforcement of the legal, technical and tax instruments and urban plans adopted for the purpose of creating an appropriate urban environment.

3. The introduction of a certificate of possession in non-surveyed areas, a right of pre-emption and a tax on any transfer of agricultural land to the category of land for urban use.

147. All these measures will definitely have a positive impact, especially as the State is developing financial support mechanisms for acquisition of the land needed for collective facilities and housing in order to meet the pressing needs of the poor and provide assistance to public and private promoters in purchasing such land. Finally, the Act will restore the land tax, considered to be one of the main sources of local financing, which will strengthen the communes' budget and improve the quality of services provided to the public.

4. Right to health and social security

(a) Right to health

148. Article 51 of the Constitution provides that all citizens shall have the right to the protection of their health. The State shall ensure the prevention of and the fight against epidemic and endemic diseases.

149. Act No. 85-05 of 16 February 1985 concerning health protection and promotion provides:

"Article 2

"The protection and promotion of health contribute to the physical and moral well-being of man and to his development within society and thus constitute an essential factor in the economic and social development of the country."

"Article 3

"The aims in the field of health are to protect human life against diseases and hazards as well as to improve living and working conditions, in particular through:

The development of prevention;

The delivery of health care that meets the needs of the population;

Priority health protection for groups at risk;

Generalization of the practice of physical education, sports and leisure activities;

Health education."

"Article 20

"The State shall deploy all possible means to protect and promote health and provide free health care."

"Article 22

"Health care benefits, defined as being all measures taken in respect of public health, all acts of diagnosis, and the treatment and hospitalization of the sick, shall be provided free of charge in all public health facilities."

150. The development of the health system, based on the constitutional principle of the right to health and on free health care which was established in 1973, has had very significant results; (a) life expectancy increased from 51 years in 1965 to 65 years in 1987; and (b) infant mortality fell from 170 per thousand to less than 60 per thousand in 1990; intensive efforts are now being made to halve the present infant mortality rate.

151. The present programme falls within the framework of the reform to decentralize the administration and to make optimum use of human and material resources. The programme is part of a policy with the following aims:

(a) To intensify the struggle against infant mortality and reduce perinatal and juvenile mortality;

(b) To reduce maternal mortality;

(c) To reduce the morbidity and mortality caused by water-borne diseases, zoonoses, and occupational accidents and diseases;

(d) To meet requirements in respect of medical and surgical emergencies and chronic diseases;

(e) To improve the training of health personnel and the information supplied to users;

(f) To provide optimum benefits at minimum cost.

152. The prevention programme includes several aspects, which have been formulated and executed as operational subprogrammes for several years:

(a) The national anti-tuberculosis subprogramme, which succeeded in reducing the morbidity rate from 16 per 10,000 inhabitants in 1970 to 0.4 per 10,000 during the last decade;

(b) The national anti-malaria subprogramme, which has virtually eradicated malaria;

(c) The national subprogramme to combat infant mortality, which should quickly bring the mortality rate close to that of the developed countries;

(d) The subprogramme to combat water-borne diseases and the AIDS prevention subprogramme;

(e) Other subprogrammes which are being executed, for example those dealing with acute rheumatoid arthritis, zoonoses and poisoning by scorpions.

153. The problem of AIDS has been taken in hand since the first cases appeared in 1986. A national committee has been established and its strategy focuses on three areas, namely:

- the prevention of contamination through the bloodstream;

- the prevention of contamination by sexual transmission;

- the care of persons suffering from the disease.

154. The birth control programme is also being continued and projects to provide special care for the elderly are under study. As a rule, the measures and projects carried out in accordance with the concept of sustainable development are pursued from a medium-term perspective and with the cooperation of the other sectors.

155. Regarding treatment, Algeria now has 60,000 hospital beds and during the last decade many new modern hospitals with between 120 and 250 beds were built in areas where medical care was deficient. The present ratio of 2.4 beds to 1,000 inhabitants is highly commendable if all the small general hospital faciities and health centres which spearhead the work of prevention and first aid are added to these.

156. Much remains to be done of course, in the area of specialized care and to ensure the balanced distribution of health-care personnel. However, there has

been unprecedented expansion in the latter area. An effort was made to impart training at all levels and this has led to a significant increase in medical staff:

5 762 specialists
4 022 residents
11 683 general practitioners
6 892 dentists
1 839 pharmacists
---
30 198 (as at 1 January 1991) (Planning Department, Ministry of Health)

This figure represents 20.2 per cent of all health staff, the remaining 80 per cent being composed as follows:

49.7 per cent: paramedical staff - 74,153;

The remainder: administrative staff - 10,799
Technicians and various agents - 34,115.

The scale of the human resources available - 150,000 persons, excluding the managerial staff and the staff of the Ministry of Health - reflects the effort that has been made and the financial needs to be met: six out of every 1,000 inhabitants belong to the health system. The legislation and regulations now being drafted concern both the statutes of all these groups of personnel and the application of the principles of socio-economic reform now under way: generalized coverage by the social security system and the Government, State health service contracts with care units having specialized services, the specialization of certain structures with a view to ending the transfer of patients to hospitals abroad, and computerization of the administration.

(b) Right to social security

157. Article 56 of the Constitution provides that "The living conditions of citizens who are not yet able, are no longer able or will never be able to work are guaranteed".

158. Act No. 78-12 of 5 August 1978 containing the general statute of workers stipulates in its article 9 that the State shall ensure social benefits for the worker and his dependent family to protect him against old age, sickness, accident and death.

159. A series of laws was promulgated between 1983 and 1985 with a view to strengthening and standardizing the social security system:

Act No. 83-11 of 2 July 1983 concerning social insurance;

Act No. 83-12 of 2 July 1983 concerning retirement;

Act No. 83-13 of 2 July 1983 concerning industrial accidents and occupational diseases;

Act No. 83-14 of 2 July 1983 concering taxpayers' social security obligations;

Act No. 83-15 of 2 July 1983 concerning social security disputes;

Act No. 85-4 of 2 February 1985 setting the rate of social security contributions;

Decree No. 85-30 of 9 February 1985 establishing the breakdown of the rate of social security contributions;

Decree No. 85-224 of 20 August 1985 establishing the conditions for bearing the cost of social security benefits to which social security contributors are entitled while at their posts or when receiving training abroad;

Interministerial Decree No. 007 of 11 October 1988 concerning the terms and conditions of transfer for treatment abroad.

The fundamental aim of all these laws and regulations is to standardize the social security system in respect of management, entitlements and benefits and financing. Social security coverage has now been extended to the entire economically active population, whereas previously the agricultural workers were not covered by the system.

160. The rate of social security contributions has been set at 29 per cent of gross wages since 1985, of which only 5 per cent is borne by the worker. For their part, the employers pay 24 per cent, divided as follows:

(a) Social insurance: 14 per cent, 12.5 per cent of which is paid by the employer and 1.5 per cent by the insured worker;

(b) Retirement pension: 11 per cent, 7.5 per cent of which is paid by the employer and 3.5 per cent by the insured worker;

(c) Occupational accidents: 1 per cent, to be borne by the employer alone;

(d) Family benefits: 3 per cent, to be borne by the employer alone (Decree No. 91-56 of 23 February 1991, amending and supplementing Decree No. 85-30 of 9 February 1985, establishing the breakdown of the rates of contribution).

There are two social security agencies: the National Social Insurance, Industrial Accidents and Occupational Diseases Fund (CNASAT) and the National Pension Fund (CNR).

161. A simultaneous reform of the social security system and the health system is being considered, in application of Act No. 90-37 of 31 December 1990 containing the national plan for 1991. Article 13 of this Act provided that during 1991, the goal of better satisfaction of the fundamental social needs of citizens should be pursued with a view to maintaining the social balance

and should constitute a priority focus of all the measures set forth in the Act. More particularly, this goal is to be attained through the reform of the social security and pension scheme and the terms and conditions of its administration.

162. An interministerial commission to carry out the reform of the health and social security system was established in 1991. It will first have to work on a report based on the conclusions of the national conference regarding the reform of health and social security prepared by a committee of experts. Its first task will be the formulation of the entire legal and regulatory process necessary for carrying out the reform. This committee has been placed under the joint authority of the Ministries of Health and of Social Welfare and has to propose a plan of action for implementing the plan to reform the health system scheduled to come into effect in 1992. In order to do this the committee will have to take all the necessary steps and pursue all the requisite negotiations with all the partners concerned.

5. Right to education and training

163. Algeria guarantees the right to education in article 50 of the Constitution:

> "The right to education is guaranteed; education shall be free of charge subject to the conditions laid down by law.
>
> Basic education shall be compulsory;
>
> The State shall organize the education system;
>
> The State shall ensure equal access to education and vocational training."

164. In accordance with the provisions of Ordinance No. 76-35 of 16 April 1976 relating to the organization of education and training, the educational system depends exclusively on the State.

165. Basic education from the ages of 6 to 16 is compulsory and free of charge. General secondary and technical education is also free of charge. Approximately 50 per cent of the pupils in basic education go on to general secondary or technical education, where the only criterion for admission is the results obtained at the basic stage.

166. The network of educational establishments for all stages has been expanded and made more accessible to users; for the school year 1989/1990 it comprised: 12,694 annexes to basic schools (e.g. primary schools); 2,248 third-stage basic schools (e.g. CEM); 758 secondary schools and technical colleges.

167. The number of pupils in school, education, still for the school year 1989/1990, was: 4,027,612, including 1,798,000 girls, at the primary level; 1,408,522, including 578,838 girls, in middle schools; and 753,947, including 342,788 girls, in general secondary and technical schools. Twenty-eight primary boarding schools were opened to enable the children of nomadic populations to have a normal schooling.

168. Additional structures for education by correspondence and literacy training for adults were organized to give an extra opportunity to persons who had not had normal schooling: the National Literacy Centre was set up in 1964 and the National Centre for Generalized Education by Correspondence was set up in 1969; it has approximately 90,000 enrolled students.

169. Ordinance No. 76-35 of 16 April 1976, relating to the organization of education and training, is one of the basic texts on education:

"Article 2

"The purpose of the educational system is:

To develop the personality of children and members of society and prepare them for active life;

To ensure acquisition of general, scientific and technical kowledge;

To respond to the people's aspirations to justice and progress;

To foster patriotism."

"Article 3

"The educational system shall:

Instil in young people the principles of justice and equality between members of society and nations and induce them to oppose all forms of discrimination;

Provide an education which encourages understanding and cooperation between peoples for the attainment of universal peace and mutual understanding among nations."

"Article 4

"All Algerians have a right to education and training. This right is ensured by the generalization of basic education. A decree shall specify the means of implementing the provisions of this article."

"Article 5

"Education is compulsory for all children between the ages of 6 and 16."

"Article 6

"The State guarantees equal access to education following the competion of basic schooling, without limitations other than individual aptitudes and the means and requirements of society."

"Article 7

"Education is free of charge at all levels, whatever the type of establishment attended."

"Article 8

"The educational system shall comprise the following levels:

Preparatory education;

Basic education;

Secondary education;

Higher education.

Each type of education is ensured in the appropriate establishment."

"Article 14

"Further education and training shall be dispensed by the State to members of society who so desire, without distinction of age, sex or occupation."

"Article 43

"Further education activities are aimed at achieving literacy and at constantly increasing the cultural, moral and political standards of members of society.

They are directed at any person or group of persons who have not benefited from school education with a view to developing their knowledge and supplementing their education."

"Article 44

"Further education shall be organized so as to constitute, along with school education, an integrated ystem of lifelong education, diversified according to the age of the beneficiaries and society's needs."

"Article 45

"Further education shall be dispensed:

In institutions specially created for the purpose;

In education and training establishments;

In any other appropriate place."

"Article 46

"Under the auspices of the Minister of Education and as established by decree, local communities, national mass organizations, enterprises and cooperatives and the various public services may organize further education activities."

"Article 47

"Further education is assured by teachers of different specializations or by any competent person."

"Article 48

"Further education provides preparation, on the same basis as school education:

For examinations and competitions for State-guarantees titles and diplomas;

For entrance examinations to schools, centres or institutes dispensing general or vocational training."

170. Decree No. 76-67 of 16 April 1976 concerning the free provision of education and training contains the following clauses:

"Article 1

"Teaching shall be dispensed free of charge in all educational and training establishments in accordance with article 7 of Ordinance No. 76-35 of 16 April 1976, relating to the organization of education and training."

"Article 2

"All pupils properly enrolled in an educational or training establishment and adults following an education or training programme shall benefit from free tuition."

"Article 3

"In addition to free tuition, pupils in basic education and in secondary education may benefit from lower-cost teaching aids, school supplies and the social services which contribute to the smooth progress of education activities."

171. Article 4 of Act No. 84-05 of 7 January 1984 concerning the planning of staffing resources in the educational system lays down that "the basic aim of staffing resources planning is to make the most of human potential and to raise cultural and scientific standards in line with national economic, social and cultural development requirements. Planning will be based on how society has developed in its respect for the principles of democratization of education, fairness and equal opportunity for all."

6. Right to equal participation in cultural activities

172. The assumption of responsibility for the various components of the national cultural heritage is intended to encourage the development and promotion of culture in a multifaceted form. Its aim is to free culture from a top-heavy bureaucracy and to ensure that those who genuinely promote it will take responsibility for it, in particular the numerous cultural associations set up as part of the move to form associations following the adoption of the Constitution of 1989 and the various cultural institutions which already existed nationally, regionally and locally.

173. Nationally, in addition to the specialized cultural institutions and the Ministry of Culture, a National Cultural Council was constituted with the aims defined by Executive Decree No. 90-250 of 18 August 1990. In coordination with the various cultural institutions, this Council has the task of promoting and developing culture by providing material and financial support to encourage the activities of these institutions and of cultural associations.

F. Right of access to any place or service intended for use by the general public

174. Access to any place or service intended for use by the general public, such as transport, hotels, cafés, parks and theatres, is open to all citizens of either sex under conditions of full equality. No discrimination or segregation is practised. Since its independence, Algeria has abrogated all discriminatory legislative and statutory measures and formulated its own laws assuming responsibility for the interests, aspirations and values of the Algerian people which throughout its long history has given proof of its tolerance, its openness to other cultures and civilizations and its complete aversion to racism, injustice, domination and discrimination in all forms.

V. INFORMATION CONCERNING ARTICLE 6

175. Where the protection of rights and effective remedies is concerned, public proceedings may be instituted by the injured party, who may further bring criminal indemnification proceedings. The Code of Civl Procedure provides that:

"Article 2

"Criminal indemnity action to remedy damage caused by a crime, an offence or a violation is the right of all those who have personally suffered damage directly caused by the infringement.

"Notwithstanding the cases referred to in article 6, paragraph 3, renunciation of such proceedings can neither stop nor suspend public right of action."

"Article 3

"The criminal indemnity action may be brought at the same time as the public action and before the same court.

"This court is competent whatever natural or legal persons under civil law is responsible for the damage."

"Article 4

"The criminal indemnity action may also be brought separately from the public action.

"However, judgement on a former action before a civil court shall be suspended until a final decision has been handed down on the public action when this has been initiated."

"Article 72

"Any person who claims to have been injured by a violation may, by bringing a complaint, become the party bringing a criminal indemnity action before the competent examining magistrate."

176. Act No. 90-23 of 18 August 1990 amended and supplemented the Code of Civil Procedure with a view to making justice more accessible to litigants and simplifying the procedures for appeals against acts by the public authorities and in administrative litigation. The procedures in force under the earlier law were characterized by the centralization of annulment proceedings at the level of the Supreme Court and by their slowness, in particular because the preliminary discretionary or hierarchical remedy to the mandatory priority over any legal remedy. Recourse proceedings against the acts of local administrations are now the responsibility of courts which receive all cases, whatever their nature, to which the State, the wilaya or any administrative body is party, for an initial hearing, subject to appeal to the Supreme Court, according to the following rules of jurisdiction:

(a) The courts of Algiers, Oran, Constantine, Béchar and Ouargla have jurisdiction for:

Annulment proceedings in respect of decisions taken by a wilaya;

Proceedings for the interpretation and assessment of the legality of the acts of those authorities.

(b) The 22 courts with an administrative chamber have jurisdiction for:

Annulment proceedings in respect of decisions taken by the presidents of the communal people's Assemblies and those of public institutions concerned with administration;

Proceedings for the interpretation and assessment of the legality of the acts of those authorities;

Litigation concerning the civil liability of the State, the wilaya, the commune or a public institution concerned with administration for compensation for injury.

(c) The Supreme Court hears:

Proceedings to quash decisions stemming from the central governing authorities on grounds of illegality;

Annulment proceedings against rulings or individual decisions by the central governing authority;

Proceedings for the interpretation and assessment of the legality of acts which may be challenged before the Supreme Court.

(d) Preliminary remedies (discretionary and hierarchical remedies) are done away with and replaced by the obligation for the judge to attempt to reconcile the parties to proceedings brought before the courts. They are only maintained for litigation devolving on the Supreme Court.

177. The public right of action may be exercised both by the Government Procurator's Office and by the party victim of an offence who may, by registering a complaint, bring a criminal indemnity action before the competent examining magistrate. In addition, on learning of an offence, the officers of the judicial police, either on the instructions of the Government Procurator, or ex officio, shall conduct preliminary inquiries.

178. Anyone who claims to be the victim of a violation of his rights is entitled to bring a complaint before the competent courts. The authorities responsible for receiving complaints are the Government Procurator and his officers. Officers of the judicial police are required to inform the Government Procurator without delay of any crimes and offences which have come to their knowledge. Victims have the right to submit a complaint either directly to the Government Procurator and his officers or by initiating a public action before the competent courts. In addition they are entitled, by registering a complaint, to bring a criminal indemnity action before the competent examining magistrate. Where a complainant or his witnesses are at risk, the Government Procurator and his officers shall ensure their protection. In addition to being able to initiate a public action, the victim is entitled to bring a criminal indemnity action. "The bringing of a criminal indemnity action, for compensation for damage resulting from a crime, an offence or an infringement, is the right of all those who have personally experienced the damage caused by the offence" (art. 2 of the Code of Penal Procedure). The civil indemnity action and the public action may be simultaneous and be brought before the same court. This court is competent whatever natural or legal person under civil law is responsible for the damage. The criminal indemnity action is admissible for all types of material, bodily or moral damage deriving from the ground for the proceedings (art. 3 of the Code of Penal Procedure). The criminal indemnity action may also be brought separately from the public action. The Civil Code lays down that "anyone subjected to an illegal attack on his inherent rights may request its cessation and compensation for possible damage resulting thereform" (art. 7). The victim has access to remedies even when the violation of a right or a freedom is committed by persons acting in the performance of their official duties.

VI. INFORMATION CONCERNING ARTICLE 7

179. Algeria does not tolerate propaganda for war; appeals to national, racial or religious hatred are forbidden and punished. It has already been said that the Penal Code punishes insults and defamation. It carries penalties for any defamation of a person or an ethnic, philosophical or religious group designed to arouse hatred among citizens or residents (art. 298, para. 2).

The provisions of article 40 of the Information Act prohibit journalists from directly or indirectly advocating racism, intolerance and violence. It should be mentioned that the Associations Act and the Political Associations (Parties) Act prohibit these associations from engaging in activities which may be detrimental to human rights or may encourage intolerance, racism and incitement to violence. Article 3, paragraph 8 of Act No. 89-11 of 5 July 1989 concerning political associations lays down that the association shall proscribe in its programme and in its activities "intolerance, fanaticism, racism and incitement and/or recourse to violence in any form". Article 5 states that "no association may be established or pursue its activities on a basis and for aims comprising sectarian and regionalist practices, feudalism or nepotism".

180. In Algeria, the principle of the equality of all human beings, tolerance, respect for others, hatred of racial prejudices, and love and understanding among peoples are instilled in every individual from earliest childhood. A course on civic, moral and religious education is taught for the purpose in all educational establishments.

181. The obligation to respect human rights is a principle of the Constitution which as such is the basis of the curricula in general education as well as in specialized education. In the universities, particularly in the faculties of law and legal sciences of Algiers and Oran, courses on human rights, the rights of refugees and humanitarian law are given both at undergraduate and postgraduate level. Various research topics dealing with human rights have been selected by students for their dissertation. In addition, a number of schools and institutes organize specialized training for judicial officers, central and local government officials and police, gendarmerie and prison administration personnel, and members of the security forces and the armed forces. The content and scope of these principles are also to be found in basic training programmes for other professions which may be related to the exercise of fundamental human rights, particularly doctors and journalists.

182. The national media, both press, radio and television, regularly reflect in various forms the numerous debates, seminars, conferences and exhibitions that are held on human rights in Algeria.

183. It should be mentioned that the forty-second anniversary of the Universal Declaration of Human Rights was the occasion for a number of political parties and associations to organize lectures, debates and seminars on human rights. The Algerian Association for Amnesty International gave a lecture on "Amnesty and human rights". The National Committee against Torture hosted a number of debates on the topic of torture, including a radio round-table. The Algerian

League for the Protection of Human Rights organized a press conference at Algiers to which the national and international press were invited, as well as debates and exhibitions on human rights in various different places. Several other cultural associations organized discussions on economic, social and cultural rights. The Algerian Human Rights League for its part, in collaboration with the Arab Human Rights Institute and the National Organization of Algerian Lawyers, organized a Maghreb seminar from 8 to 11 December on human rights training, attended by representatives of many other Maghreb human rights associations.